

REMARKS

By way of the present amendment, Claims 3-14, 18, 20-23 are currently pending. Claims 3-14, 18, and 20-23 have been amended without prejudice or disclaimer as to the underlying subject matter. Moreover, such amendments include adoption of suggestions from Examiner McElwain. As such, entry of the present amendment is respectfully requested. Further, Claim 18 has been amended in a manner which is consistent with the Interview Summary mailed on November 17, 2008. As such, it is Applicants' understanding that previously withdrawn Claim 18 will be rejoined by the Examiner. Support for the foregoing amendments can be found throughout the Specification and claims as originally filed, for example, at page 4, line 26 - page 5, line 7; page 8, lines 27-28; page 13, lines 24 - 28 and page 18, lines 6-19. No new matter enters by way of the foregoing amendment.

Based on the Advisory Action mailed on November 4, 2008, it is Applicants' understanding that the Examiner did not enter the claim amendments which were presented in the Response to the final Office action submitted on October 24, 2008. Accordingly, in this current second Response, Applicants have marked-up amended Claims 3-14, 18, and 20-23 based on the previously examined claim set presented in the Amendment and Response to Office action submitted on May 21, 2008. Moreover, it is Applicants' understanding that newly presented Claims 24-25 which were submitted in the Response to the final Office action submitted on October 24, 2008 have not been entered by the Examiner. As such, Applicants have not included Claims 24-25 in this Second Amendment and Response to the Final Office Action as it is Applicants' understanding that there is no need to formally cancel Claims 24-25 as they were not previously entered by the Examiner. Applicants urge the Examiner to contact Applicants via telephone if this is inconsistent with the Examiner's interpretation of the rules.

I. Interview Summary

Applicants submit the following summary of the interview conducted on Thursday November 13, 2008. Applicants' representatives thank the Examiner for extending the courtesy of an interview.

In Attendance:

Examiner: Elizabeth McElwain

Applicants' representatives: David Marsh, David Vanik, and Kristan Lansbery

1) Exhibits:

None.

2) Claims Discussed:

All pending claims as submitted on October 24, 2008 were discussed, Claims 3-14, 18, 20-23.

3) Cited Art Discussed:

None.

4) Amendments discussed:

Amendments to Claims 3, 6, 8-9, 13, 18, and 20-23 were discussed.

5) Summary of Arguments:

Applicants' representatives respectfully stated that the claim rejections under 35 U.S.C. § 112, first paragraph (written description), and 35 U.S.C. § 112, first paragraph (enablement), should be withdrawn. Applicants' representatives and the Examiner discussed solutions for amending the claims to remove the Examiner's concerns regarding the written description and enablement rejections.

6) Other Matters:

None.

7) General Result:

While no formal final agreement was reached at the interview, the Examiner contacted Applicants' representatives by telephone on November 14, 2008 and suggested allowable claims. Applicants' representatives thank the Examiner for her direction and guidance presented during the interview and subsequent telephone call. To facilitate prosecution, Applicants have amended the claims as recited in the instant Second Response to incorporate the Examiner's suggestions and reply further to the rejections below.

II. Amendment to the Specification

Applicants have amended the Specification in accordance with the Examiner's suggestion. Final Office Action at page 5. Specifically, consistent with the Examiner's suggestions, Applicants have inserted SEQ ID NO: 1 into the paragraph starting on page 43, line 25 of the Specification. As such, Applicants respectfully request withdrawal of the objection.

III. Rejection under 35 U.S.C. § 112, First Paragraph, Written Description

Claims 3-14 and 20-23 have been rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the Specification in such a way as to reasonably convey to one of skill in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Final Office Action at page 3.

Applicants disagree. However, solely in order to facilitate prosecution, Applicants have amended the claims without prejudice or disclaimer in a manner which is consistent with the Examiner's suggestion for allowable claims. As such, Applicants respectfully request withdrawal of the rejection.

IV. Rejection under 35 U.S.C. § 112, First Paragraph, Enablement

Claims 3-14, 20 and 23 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the Specification in such a way so as to

enable those skilled in the art to make and/or use the invention commensurate in scope with the claims. Office Action at page 4.

Applicants disagree. However, solely in order to facilitate prosecution, Applicants have amended the claims without prejudice or disclaimer in a manner which is consistent with the Examiner's suggestion for allowable claims. As such, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding objection and rejections of the claims, and to pass this application to issue. The Examiner is encouraged to contact the undersigned at (202) 942-5186 should any additional information be necessary for allowance.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)
Kristan L. Lansbery (Reg. No. 53,183)

Date: November 25, 2008

ARNOLD & PORTER LLP
555 12th Street, N.W.
Washington, D.C. 20004
(202) 942-5000 telephone
(202) 942-5999 facsimile